

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

KENNETH EARL GEISLER,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-06590

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Kenneth Earl Geissler's ("Claimant") Complaint seeking review of the decision of then Acting Commissioner of Social Security, Carolyn W. Colvin ("Defendant") (ECF No. 1).¹ By Standing Order entered January 4, 2016, and filed in this case on July 22, 2016, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R (ECF No. 10) on July 31, 2017, recommending that this Court **GRANT** Claimant's Brief in Support of Judgment on the Pleadings to the extent it seeks remand, **DENY** the Defendant's Brief in Support of the Final Decision, **REVERSE** the final decision of the Commissioner, **REMAND** this case for further proceedings pursuant to sentence four of 42 § U.S.C. 405(g), and **DISMISS** this matter from the Court's docket.

¹ Nancy A. Berryhill became the Acting Commissioner of Social Security on January 23, 2017, replacing the former Social Security Commissioner, Carolyn W. Colvin, the original Defendant in this case. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Ms. Berryhill is automatically substituted as the Defendant.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on August 17, 2017. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R (ECF No. 10), **GRANTS** Claimant's Brief for Judgment on the Pleadings (ECF No. 7) to the extent it seeks remand, **DENIES** Defendant's Brief in Support of the Final Decision (ECF No. 8), **REVERSES** the final decision of the Commissioner, **REMANDS** this case for further proceedings pursuant to sentence four of 42 § U.S.C. 405(g), **DISMISSES** this matter, and **DIRECTS** the Clerk to remove this case from the Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 21, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE